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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/692,052

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Barry Charles Kilby

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Washington, DC 20006

EXAMINER

PANDYA, SUNIT

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

09/01/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/692,052	<b>Applicant(s)</b> KILBY ET AL.	
	<b>Examiner</b> SUNIT PANDYA	<b>Art Unit</b> 3714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 July 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 31-34, 36-38, 40-55 and 57-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-34, 36-38, 40-55 & 57-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

This action is in response to amendments filed on 7/1/2010, wherein the examiner acknowledges that no have been amended, no new claims have been added or canceled; consequently, claims 31-34, 36-38, 40-55 & 57-61 are currently pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31-34, 36-38, 40-55 & 57-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Healy (GB 2,231,189) in views of Goldberg et al. (US Patent 5,823,879).

Claims 31 & 53: Healy discloses method for facilitating the play of a missing object location game comprising, providing a game image to the game player, the game image is configured to omit the missing object from the game image, providing coordinates associated with the game image and displaying an image of the missing object at a current location on the game image, pointed to by the pointing device (figures 3-5). Healy also discloses receiving from the players an indication of the player's guess as to the proper location of the missing object on the game image (pages 1-2, wherein the guess is a set of coordinates that corresponds to the location on the

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game image of the missing object, when the player's guess is indicated). Healy also discloses receiving the player's guess by receiving a location in the set of coordinates on the game image selected using a pointing device (wherein the coordinates are a set of X and Y grid, page 6, paragraph 3 & figure 4). In response to the player's guess, Healy determines whether the player has won the game, depending on the distance between the player's guess as to the proper location of missing object on the game image and the object's location (page 3, paragraph 3). Healy, however, fails to disclose feature that require player to enter a unique code via a network, and to play the game at a server.

In an analogous art of computer gaming system, Goldberg et al. teaches a network game, which allows users to access a game on a website by means of a security feature or code (figure 3 & col. 10: 11-30, wherein all the information could be stored at a game server), and the game is further played on the network server, by allowing players to connect on to the server from various locations (figure 7 & col. 14: 37-65). It would have been obvious for one with ordinary skill in the art at the time of the invention to include the security features such as secure access gaming utilizing a server, as taught by Goldberg et al., in the game disclosed by Healy, in order to allow access to the game by certain players who have made purchase to participate in the game, and block players who have not.

Claims 32 & 54: The combination of Healy and Goldberg et al. teaches the game being a picture of a sporting event including a ball, where the ball is omitted from the picture (Healy, figure 4).

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Claims 33, 34, 42 & 55: The combination of Healy and Goldberg et al. teaches accessing a game on a website by means of security feature such as secure login (figure 7 & col. 14: 29-65). However, Goldberg et al. does not explicitly state that the security code is stored on a ticket. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Goldberg et al. to include the security feature on a ticket, or barcodes or on magnetic strips, in order to make it easily accessible and portable for the players to use.

Claims 36-37 & 61: The combination of Healy and Goldberg et al. teaches providing coordinates associated with the game image, and receiving the player's guess by receiving a location in the set of coordinates on the game image selected using a pointing device (Healy, discloses the coordinates as a set of X and Y grid, page 6, paragraph 3).

Claim 38: The combination of Healy and Goldberg et al. teaches a pointing device being a mouse (Healy, page 8, paragraph 2).

Claims 40 & 41: The combination of Healy and Goldberg et al. teaches of receiving predetermined number of additional guesses from the player, wherein each guess indicating a corresponding location guess as to the proper location of the missing object, and displaying an image at the guess locations (Healy, figure 5 & page 6, paragraph 2).

Claim 43: The combination of Healy and Goldberg et al. teaches determining the winning if the players' guess is within a predetermined distance of the actual location of the missing object (Healy, page 7).

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Claims 44 & 45: The combination of Healy and Goldberg et al. teaches determining the winner if the players' guess is within a predetermined distance of the actual location of the missing object (Healy, page 7), wherein a processor is configured to evaluate the distance to determine the winner, and a game programmer would find it within their means to be able to manipulate the processor thus controlling the distance to increase or decrease the number of winners.

Claim 46: Combination of Healy and Goldberg et al. teach of receiving from plurality of player's respective guesses as to the proper location of the missing object in the game image (figures 3-5).

Claims 47-50 & 57-60: The combination of Healy and Goldberg et al. teaches determining the winning if the players' guess is within a predetermined distance of the actual location of the missing object (Healy, page 7).

Claim 51: The combination of Healy and Goldberg et al. teaches of communicating through an email regarding a players' game activity (Goldberg et al., col. 5: 4-25).

Claim 52: The combination of Healy and Goldberg et al. teaches displaying the game image with the missing object in the actual location (Healy, page 9).

### ***Response to Arguments***

Applicant's arguments filed on 7/1/2010 have been fully considered but they are not persuasive.

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The applicant argues on page 3, that neither Healy, nor Goldberg et al. teach all of the claimed limitation, specifically, "displaying an image of the missing object at a current location on the game image pointed to by a pointing device", the examiner respectfully disagrees. Healy, in figure 3, element 10 discloses the actual display of the missing object at its current location, on the display device.

Regarding the applicant's arguments on pages 3-4 that neither Healy nor Goldberg et al., discloses or makes any mention of set of coordinates that corresponds to the current location on the game image of the missing object; the examiner respectfully disagrees. Healy discloses receiving from the players an indication of the player's guess as to the correct location of the missing object, on the game image. On pages 1-2 & 5-6, Healy discloses allowing players to mark different locations on the game screen (using a pointing device such as a joystick or a mouse, page 8, paragraph 2) as to the player's guess for the correct location of the missing object, wherein the player's guess as to the location of the missing object guess, is a set of coordinates, which corresponds to the location on the game image of the missing object. The location selected by the player, as the guess, is automatically converted into a set of X and Y coordinates on the grid to verify if the player selected marking corresponds to the location on the game image of the missing object (page 6, paragraph 3 & figure 4). After the player has exhausted all of assigned guesses, the object's exact location is revealed to the player, after which an award is provided to the player if said player correctly guessed the coordinates of the missing object.

Applicant also argues on pages 3-4 that Healy does not teach or suggest that the image of the missing object would ever be presented on the display, Healy necessarily cannot teach receiving a location corresponding to the location of the image of the missing object; the examiner respectfully disagrees. As stated above, Healy, clearly indicates in figure 3, element 10 the actual display of the missing object at its current location, on the display device. Thus, once the object is hidden the player then starts to input his selection as possible location of the missing object, wherein the inputted location by the player is a set of X and Y coordinates on the grid to verify if the player selected marking corresponds to the location on the game image of the missing object (page 6, paragraph 3 & figure 4).

Thus, the combination of Healy and Goldberg et al., teaches all of the claimed limitations; consequently, the rejection is maintained.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUNIT PANDYA whose telephone number is (571)272-2823. The examiner can normally be reached on M-Th 8 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAMES S. MCCLELLAN/  
Primary Examiner, Art Unit 3714

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